

## **APPLICANT/CLIENT HEARINGS AND APPEALS**

- A. Definitions: Appeals result from the dissatisfaction of applicants for or clients of vocational rehabilitation with some aspect of agency services. An appeal must be filed within 90 days of the date of the action being appealed. The following words are of particular importance to this process.
1. Applicant - A person who has applied for services of the VR agency, but for whom eligibility has not yet been certified.
  2. Appeal - A request by the applicant/client for remedy from a current decision or situation.
  3. Client - A person who has applied for the services of vocational rehabilitation and been found eligible for VR services or certified for a period of extended evaluation to determine vocational rehabilitation potential.
  4. Impartial Hearing Officer - An individual who:
    - a. is not an employee of a public agency;
    - b. is not a member of the State Rehabilitation Advisory Council;
    - c. has not been involved in previous decisions regarding the vocational rehabilitation applicant or client;
    - d. has knowledge of the delivery of vocational rehabilitation services, the Title I State Plan and the Federal and State rules governing the provision of VR services;
    - e. has training in the performance of the duties of a hearing officer; and
    - f. has no personal or financial interest that would be in conflict with the individual's objectivity.
  5. ICAP . Iowa Client Assistance Program staff who serve as advocates, see I-F-1.
  6. Mediation - An act or process of intervention between conflicting parties to promote reconciliation, settlement, or compromise on the issue(s) under appeal.
  7. Mediator - An individual who:
    - a) is impartial; and
    - b) is trained in effective mediation techniques.
  8. Supervisor Review - A review conducted by the supervisor of the office where the individual is contesting an action taken by the counselor.
  9. Parent/Guardian/Other Representative - This may be anyone the client designates. This is referenced as PGR throughout this section.

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10. Time Allowed - From the initiation of any appeal by the client, only 60 days are allowed until the hearing before an Impartial Hearing Officer must be held. The time allowance is considered to begin on the date the appeal form is received from the client or completed by the supervisor. The time may be extended by mutual agreement or the showing of good cause for the extension by one of the parties.

11. Remote Hearings . Clients who wish to proceed to an appeal hearing shall be given the option of meeting face-to-face with the hearing officer and VR staff or having the hearing conducted over the Iowa Communications Network (ICN). If the client chooses the ICN hearing the hearing officer and IVRS management staff will be on-line from Des Moines. An ICN site convenient for the client and local IVRS staff will be arranged. A copy of the casefile will be made available at the remote site. The hearing will be video taped.

B. Purpose: The purpose of an appeal is to provide vocational rehabilitation applicants/clients a means to seek an equitable remedy in a timely manner for a dissatisfaction with some aspect of agency services.

C. Appeal Process Description: An applicant/client or PGR may appeal any agency decision by completing the appropriate IVRS Appeals Form requesting a review of that decision. The applicant/client or PGR is first given the opportunity to review the decision with the supervisor of the office where the case is assigned. The client is to be informed that while they may bypass the supervisory review and go directly to the impartial hearing, many appeals are quickly and equitably resolved at the supervisory level. The applicant/client must also be informed that whether they agree to a supervisory review or not they will be offered the opportunity to attempt to resolve the dispute through a mediation process. The client or PGR may request assistance from ICAP for help with the mediation or appeal.

If a supervisory review was agreed to, but the applicant/client or PGR is not satisfied with the supervisor's decision, an appeal and request for mediation or a hearing may be filed with the Administrator of IVRS.

If mediation is attempted, but not successful, the applicant/client can proceed to a hearing before an impartial hearing officer.

D. Notification of Rights: At the time of application for rehabilitation services, and at other times throughout the rehabilitation process, all applicants/clients or PGR will be informed of their right to and the procedures by which they may file an appeal.

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## E. Procedures:

### 1. Supervisor Review .

- a. At the first level, the dissatisfied applicant/client is advised that a supervisory review of the counselor's decision may be requested by notifying the counselor or supervisor in person, by phone or by letter of the decision to appeal or mediate.

- (1) If the supervisor has been involved in decisions in the case to the degree they do not believe they can render a fair decision, or if the supervisor is not going to be available to complete the review in a timely manner, the appeal and the casefile will be forwarded to the Assistant Bureau Chief for resolution of this appeal step. The client may also involve ICAP.

- (2) When receiving a request for a supervisory review, the supervisor will notify all appropriate parties of the date and nature of the appeal; examine casefile documentation; discuss the issues and reasons for the decision with the immediate counselor and other counselors who may have been previously involved with the case/issue; and, if necessary, meet with any or all parties to discuss the disagreement.

- (3) The supervisor will have ten working days from receipt of the appeal to decide the issue and notify the client in writing. A copy is sent to all appropriate parties.

- (4) The applicant/client or PGR will be informed of the decision by letter. If the decision is not in accord with the applicant/client or PGR wishes, the letter will detail further appeal or mediation procedures. The letter will also detail the availability of the Iowa Client Assistance Program (ICAP) to discuss the client's appeal and, if ICAP determines it appropriate, to assist in the preparation and presentation of the individual's case. The letter will include a request that the applicant/client notify the IVRS State Office within 10 days of the date of the letter if they desire to appeal further.

- (5) The outcome of the Supervisory Review will be recorded in an R-413 entry in the client's casefile.

### 2. Mediation - If mediation is the applicant/client's choice, the mediation step is:

- a. voluntary on the part of the parties;

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- b. not to be used to delay the right of an individual to a hearing;
- c. conducted in a timely manner at a location convenient to the parties;
- d. conducted by a qualified and impartial mediator trained in effective mediation techniques, selected from a list maintained by IVRS;
- e. paid for by IVRS; and
- f. held confidential as to discussions that occur during the mediation process.

3. Impartial Hearing Officer Review -

- a. Appointment - As rapidly as possible after the receipt of an appeal, the IVRS Administrator shall appoint a hearing officer, from the pool of hearing officers with which IVRS has contracts. The hearing officer shall be assigned on a random basis; or by agreement between the Administrator of IVRS and the individual who is appealing.
- b. Time Frame and Extensions - Within 20 days of the receipt of the appeal in the State Office, the hearing must be held. Parties to the hearing must be notified of the decision within 30 days after the completion of the hearing. The time frames cited in this section may be extended by a reasonable amount by the showing of good cause on the part of one party or mutual agreement of both parties.
- c. Casefile Availability - The client shall be informed that the filing of an appeal implies consent for the release of the casefile information to the impartial hearing officer. The hearing officer shall have access to the casefile or a copy thereof at any time following acceptance of the appointment to hear the case.
- d. Hearing: Within five working days after appointment, the impartial hearing officer will notify the individual of:
  - (1) the role of the hearing officer;
  - (2) their right to select either a face-to-face or ICN hearing;
  - (3) his/her understanding of the reasons the client is appealing and the requested resolution;
  - (4) the date the applicant/client and/or PGR is to appear before the hearing officer to present evidence in support of the appeal (must be within 20 days of when the appeal was received unless good cause for delay can be shown or both parties agree to an extension);
  - (5) the availability of the client's casefile for review and copying in a VR office prior to the hearing. If the client chooses to have a hearing by ICN a complete copy of the casefile will be provided to local staff for use at the hearing. Arrangements for the file to be in any particular office may require a few days notice. (The

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counselor or supervisor will have reviewed the file and determined if there is information that would be harmful to the client. This determination must be verified by the area medical, psychological, or psychiatric consultant. If potentially harmful information is in the casefile, the client must be informed that potentially harmful information has been removed from the casefile and placed in a separate envelope, which will be available to the impartial hearing officer and any physician, or licensed or certified psychologist designated by the client.)

- (6) the site at which the hearing will take place - the site will be accessible and located as advantageously as possible for both parties, regardless of whether it is a face-to face or ICN hearing. In situations where this is a problem, the needs of the applicant/client shall prevail;
- (7) the fact that under IVRS rules of confidentiality the hearing will be closed to the public, unless the client specifically requests that it be open, at which time the client must sign a release of information;
- (8) the opportunity to present additional evidence and information, and call witnesses, to be represented by counsel or other appropriate advocate, and to examine all witnesses and other relevant sources of information and evidence;
- (9) the availability of the Iowa Client Assistance Program (ICAP) to discuss the client's appeal. The individual may request assistance from ICAP, and together they determine if it is appropriate to assist in the preparation and presentation of the individual's case;
- (10) information about the amount of time it will take to complete the hearing process;
- (11) the possibility of reimbursement of necessary travel and related expenses; and
- (12) the availability of interpreter and reader services for applicants/clients not familiar with the English language and those who are deaf. This may include transportation and attendant services for those requiring such assistance.

e. Decision - The Impartial Hearing Officer makes a decision based on the provisions of agency policy, the approved State Plan and the Act and provides a full written report of the findings and grounds for the decision within 30 days of the completion of the hearing.

4. Provision of Services - Unless the individual with a disability or the individual's representative requests it, pending a decision by a mediator

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or hearing officer, the counselor shall not institute a suspension, reduction, or termination of services being provided to the individual.

5. Finality of Review - Unless either party chooses to seek judicial review under the Iowa Administrative Procedures Act, the decision is final when received from the Impartial Hearing Officer. Even if there is a request for a judicial review, the Hearing Officer's decision will be implemented pending the outcome of that review.

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